G. R. S. 58]

Previous references.

Courts 56-96. and 8 1—11.

1898

~~191~~ .

(Courts)

Lets File No. 32—97

Serial Nos. 1—4

Later references.

Cr. W-02

p. 17

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1—4

major ~~Part~~ B for March 1898.

SUBJECT.

Trial by a mysore Magistrate of offenders illegally surrendered from British Territory

---

1. From the District Magistrate, Kolar. No Camp 488-98. R.S. Dy 5638/1869. Reports that a Communication has been addressed to the Chief Court requesting to set aside on the Revision side, the Conviction and Sentence passed by the Amildar Magte of Bowringpet in Cr. Case No 79 of 97-98. on the file of that Court, and Confirmed in Cr: Appeal No 31 of 97-98. on the file of this Court, as the trial by the Amildar Magte is opposed to the provisions of C. P. C. & Transfer in Act

GPB—8,500—21-7-14

2. To. The Govt Advocate & the District magte. Kolar.

No 1467-8/1858. dt. 3-1-98.

Forwards the above letter (8C1) to the Govt advocate and requests to bring the provisions of Secs. 188-189 of the Cr. P. C. to the notice of the Ch: Court.

3. From the Govt Advocate No 151/8 - 9.3.98.

Dr. No 2883/1190. Submits that the judges of the Ch: Court have desired of the Cr Case No 79 of 1897-98. on the file of the Bench Magte of Bowringpet on the Revision side and forwards copy of the judgment

4. To. The District magistrate & the Registrar.

Directs that the above order of the Ch: Court will be communicated to the District magistrate in continuation of para 3. of G.O. No 1017-80/J1098 dt - 22. 2. 1898.

H.C. Dareem

Concurred

Jud.

G file No. 2 of 1897-98. See

Order of the Chief Court on the
Revision side in the matter of a trial
by the Mysore Magistrate of offenders
illegally surrendered from British
Territory

J 869 1

Gen. 31.]

1897-98

OFFICE OF
5638
3-1-98
OF

SECTION Courts

FILE NO. 32-97

SERIAL NO.

From

The District Magistrate of Kolar (1)

To.

The Secretary to the Government of Mysore. General Revenue Departts.

Dated 25 } December 97
Despatched }

Received 3-1-98

Camp General No. 48 } 8798.
No. 4 }

Enclosures No. 2

Reporting that a Communication has been addressed to the Chief Court for the conviction and sentence passed by the Asst. Magte of Bowringpet and Confirmed by this Court, may being set aside on revision side as the trial by the said Magte is opposed to the provisions of C. P. C and Extradition Act.

To

The Secretary to the Government
of Mysore General & Revenue
departments.

Sir,

In forwarding herewith copy of judgment in Crml appeal No 31 of 1897-98 together with a copy of the letter addressed to the Registrar of the Chief Court No 2107/1264 dated 23d instant, I have the honor to report that the surrender of the accused by the Sub Magistrate of Kappan and his trial by the amildar Magistrate of Bowringpet Taluk, are illegal and opposed to the provisions of the Criminal Procedure Code and the Extradition Act. I have submitted the records to the Chief Court for the conversion and sentence of the lower Court and the subsequent confirmation in appeal being set aside in revision and shall report the result for such further action as the Govern-ment may deem proper.

I have the honor to be
Sir
Your most obedient Servant

District Magistrate

Kolar District magistrate's office

No. 2101/1264

Encl 1 & 1

Dated 23d December 1897

To

(6)

The Registrar of the
Chief Court in
Mysore

Sir,

With reference to para 3 of my judgment in Criminal appeal No 31 of 1897-98 forwarded with docket No 255 dated the 22nd Instant, I have the honor to submit explanation of the Amildar magistrate received this day, together with the criminal records connected therewith —

2 It will be seen from these papers that the accused is a native Indian Subject of Her Majesty and was living at Desahalli in the Bowringpet Taluk as a Cooly. He was arrested by British police in British Territory and placed before the Sub-magistrate of Kupppam for trial. The Sub-magistrate finding that the offence had been committed in Mysore province, ordered him to be placed before the Bowringpet Taluk Magistrate who tried and convicted him. In the first place the accused being a British Subject

Subject, he might have been tried by the British Magistracy under section 188 of the Criminal Procedure Code — Failing that he should have been remanded to the Lock-up by the Magistrate pending institution of formal proceedings for his extradition. The Surrender and the subsequent trial before the Amildar Magistrate of Bowringpet are therefore clearly illegal and the Conviction by him and the Confirmation of the appeal by me are void —.

not under section a case from the Resident

does not the case come under section 537 Cr. P. Code

3 I beg therefore that the Chief Court will be pleased to take necessary action on the revision side. A Copy of this letter will also be submitted to Government for their information.

I have the honor to be
Sir
Your Most obedient servant
(Signed) A. Rangasamy Iyenga
District Magistrate

Copy"
A Rangasamy
District Magistrate

Encl to Sl/

In the Court of the District Magistrate of Vellore

The 17th day of December 1897

Present: A. Rangaswamiengar Esqr B.A., B.L.

Criminal appeal No. 31 of 1897-98
against the conviction and sentence
by the Amildar and 2nd class Magi-
strate of Bowringpet in case No. 79 of 1897-98

Appellant
Muni Mathri
alias
Muniga
(accused).

The offence with which the appellant was charged was House-Breaking and theft punishable under sec. 457 & 380 I.P.C. The Amildar Magistrate finding the appellant guilty sentenced him to undergo rigorous imprisonment for six months.

Against this sentence the grounds of appeal presented by the appellant through the Superintendent, Central Jail

Territory and remanded by the Sub Magistrate of Kuppam for being placed before the Amildar Magistrate for trial. If the man had really been arrested outside the Province as appears very probable from the papers, both Magistrates have acted illegally in ignoring provisions of the Extradition Act

The place of arrest will be ascertained and the case reported to Government for their orders.

It must also be stated that the Amildar Magistrate has failed to ascertain the exact date of occurrence, the place of arrest of the accused, and the fact whether he is a Native Indian Subject of Her Majesty or a Subject of the Mysore State The charge framed by the Magistrate also does not contain

Encl to Sl 1

In the Court of the District Magistrate of Tan

The 17th day of December 1897

Present: A. Rangaswamiengar Esqr B.A., B.

Criminal appeal No. 31 of 1897-98 against the conviction and sentence by the Amildar and 2nd class Magistrate of Bowringpet in case No. 79 of 1897-98

Appellant

Muni Mathri alias Muniga (accused).

The offence with which the appellant was charged was House-Breaking and theft punishable under sec. 457 & 380 I.P.C. The Amildar Magistrate finding the appellant guilty sentenced him to undergo rigorous imprisonment for six months.

Against this sentence the grounds of appeal presented by the appellant through the Superintendent, Central Jail

Jail were as follows :—

(1) That the clothes alleged to be stolen were purchased by him in the weekly market at Coregam.

(2) That his conviction is improper.

Judgment

The evidence for the prosecution clearly shews that the property before the Court belongs to the complainant, the 4th witness for the prosecution, that he had hung up in a bundle in his house and that the door of his house had been opened and the bundle removed in the night. The accused was working with complainant in a tile factory in the complainant's village at the time of the loss and made himself scarce a day after the

occurrence. He admits having sold them to some of the witnesses for the prosecution within 2 or 3 days after that, but pleads that he purchased them at an auction in the weekly fair at Coregam. The only witness cited by him however, denied having accompanied him to the fair or seen him buy the clothes.

The story of the accused as to the price paid for the clothes, and the circumstances which induced him to get rid of them for almost half the value paid by him, at a distance from his village is most improbable.

The conviction is therefore proper, and the sentence not too severe and both must accordingly be confirmed and the appeal dismissed

But the records disclose the fact that the accused had probably been arrested by a British Police Officer outside the Mysore Territory

Territory and remanded by the Sub Magistrate of Kuppam for being placed before the Amildar Magistrate for trial If the man had really been arrested outside the Province as appears very probable from the papers, both magistrates have acted illegally in ignoring the provisions of the Extradition Act.

The place of arrest will be ascertained and the case reported to Government for their orders.

It must also be stated that the Amildar Magistrate has failed to ascertain the exact date of occurrence, the place of arrest of the accused, and the fact whether he is a Native Indian Subject of Her Majesty or a Subject of the Mysore State The charge framed by the Magistrate also does not contain

contain all the details required by the Code and he has not given the salient points deposed to by the witnesses for the prosecution in his judgment. It is very much to be regretted that in spite of the admonitions from this Court, he should conduct the enquiries so imperfectly and draw up his judgments so carelessly.

Pronounced in Court.

(Signed) A. Rangaswamiengar
District Magistrate

17 · 12 · 97

"Copy"

A Rangaswamy
District Magte
Kolar Dist

Urgent

Read

Letter No. 48 dt 25-12-97
from the District Magte of Kolar
reporting that he has submitted
to the Chief Court
the records connected with the
Conviction of one Mani Manthiri
Moonija by the Bowringpet for house-breaking
and theft and that he has requested
the Chief Court to set aside the
conviction & sentence of the lower court
and the subsequent confirmation
of the same in appeal, as
the trial by the former was
illegal and opposed to the provs
of the Criminal Procedure Code
and the Extradition Act -

SECTION Courts
FILE NO. 32-97
SERIAL NO. 2

Order thereon - No 1407-68 / 1858 dt 3-1-98 ans 3

The letter read above is
forwarded in original to the Govt Advocate
~~in original~~ who is requested
to bring the provisions of Ss 401
and 537 of the Cr. Pro. Code
to the notice of the Chief Court -

by
3/1/98
Secy

To the Govt Advocate
with the letter of the Magte
Kolar
Same at once

J 1190 11

189

From The Govt:- Advocate
Mysr

7883
12/3/98

To

The Secretary to the Govt. of Mysore,
R v. and Gen. Depts.

SECTION Courts

FILE No. 32-97

SERIAL No. 3

Dated 9-3-98

Despatched

Received /2 —.. —

General No. 157

No.

Enclosure No. 4

Intimating that the Judges of the Chief Court have disposed of the Cr. case No. 79 of 1897-98 on the file of the Amildar Magistrate of Bowring pet. on the revision side

References to be marked.

Refers pertup.
SM
14-3-98

Subs for orders. case of a
In this reference from the Dt. Magistrate of K.G.F. the Ch. Court have decided an important point of law may this letter be read with enclosure be read in extenso with Proc. of 5: January & 22: February also a the same communicated to all Dts of Magistrates.
Noted & Rec'd 15/3/98
15/3/98

Office of the Govt. Advocate
in Mysore
9th March 1898

No. 151
Encls. Nos 4

Jnd
12.3.98

From

The Government Advocate
in Mysore

To

The Secretary to the
Government of Mysore
General & Revenue Depts.

Sir,

With reference to the Proceedings of the Government order No. 7467-8, 1858 dated 3rd January 1898 I have the honor to state that the Judges of the Chief Court ~~have heard and~~ has disposed of the matter on the Revision side. A copy of the order passed in Criminal Revision Case No. 98 is herewith forwarded for information

The enclosures received with the above Proceedings are herewith returned.

I have the honor to be
Sir,
Your most obedient Servt.

Government Advocate

Encl to ltr 3

(3/2)

In the Chief Court of Mysore at Bangalore.
Saturday the 15th day of January 1898.

Present

The Hon'ble Mr Justice J. W. Best, Chief Judge
and
The Hon'ble Mr Justice A. Ramachendra Iyer, Judge

Revision Case No 98 of 97-8

Letter No 2101/1264 dated 23rd December 1897

In the matter of a reference from the District Magistrate of Kolar in the case of Mooni Mantri alias Mooniga accused in Criminal case No 79 of 1897-98 on the file of the Amildar and 2nd Class Magistrate of Bowringpet and appellant in Criminal appeal No 31 of 1897-8 on the file of the said District Magistrate

Order

As the offence was committed within the jurisdiction of the Bowringpet Taluk Magistrate it cannot be said that the Magistrate had not jurisdiction to try the offence.

Whatever illegality the Kuppam Magistrate and Police may have been guilty of in placing the accused before the Bowringpet Magistrate, the latter cannot be said to have exceeded his jurisdiction in trying the case when the accused was placed before him. Moreover, the accused does not appear to have objected to the Bowringpet Magistrate's jurisdiction to try the case.

Record returned herewith

Section

Section 188 of the Code of Criminal Procedure in force in Mysore is not applicable to the case as it has reference to offences committed by "Subjects of His Highness the Rajah of Mysore" in any place "beyond the Territories of Mysore."

It is unnecessary for us to consider what the Kuppam Magistrate should have done under the corresponding Section of the Code of Criminal Procedure in force in British India

The record is herewith returned

(Signed) J. W. Best
Chief Judge

(Signed) A. Ramachendra Iyer
Judge

"Sealed"

"True Copy"
S Ramaswamy
Government Advocate

(4)

Read

Letter No 408 of 28-12-97 from the District Magte of Kolar (with its enclosure V/[illegible] Refd. to Chief Comr) —

[In extenso]

17/[illegible]

SECTION C/S
FILE N 31-97
SERIAL N 4

Read also

The following order of the Chief Comr in Revision Case no. 90 of 1097-98 (received with the Govt. Asst's Letter No 1571 of 7-3-98) —

[Ch Comr's order in extenso]

[illegible] 2 of 97-8 is put up (Please see S. Nos 8, 9, 10 + 12 in Sectn A ~~[illegible]~~ + S. Nos 1 + 3 in Sectn D the [illegible]) 2 printed copies of [illegible] not having been recd [illegible] the letter to the [illegible] [illegible] / ~~[illegible]~~ Send a fresh copy [illegible]

[illegible] 98

Office / [illegible] 3 weeks [illegible]

Explanation called [illegible]

Order thereon No 12029-37 / G 1307 of 24-3-98 —

The above order of the Chief Comr will be communicated to all District Magtes for information in continuation of para 3 of Govt. Rep No 10172-810 — J. 1080 dt [illegible] Feby 1898

The file containing the C/s 56-96 minute & other papers called for is [illegible] sd 11

[illegible] 5/4/98

6/4/98

8812/Seen [illegible]

[illegible] 6/4/98

File [illegible] 7/4/98

7/4/98

[illegible] for approval

8673

[illegible] 17/3/98 | approved. a printed copy of this should go with Rend[illegible]

R.C.

To
All District Magtes —
Copy to the Registrar of the Chief [illegible]

[illegible]

Proceedings of the Government of Mysore, Judicial, dated 24th March 1898.

READ—

Letter No. 48, dated 25th December 1897, from the District Magistrate of Kolar, to the Secretary to the Government of Mysore, General and Revenue Departments—

In forwarding herewith copy of judgment in Criminal Appeal No. 31 of 1897-98, together with a copy of the letter addressed to the Registrar of the Chief Court, No. 2101—1264, dated 23rd instant, I have the honor to report that the surrender of the accused by the Sub-Magistrate, Kuppam, and his trial by the Amildar Magistrate of Bowringpet taluk are illegal and opposed to the provisions of the Criminal Procedure Code and the Extradition Act. I have submitted the records to the Chief Court for the conviction and sentence of the lower court and the subsequent confirmation in appeal being set aside in revision and shall report the result for such further action as the Government may deem proper.

Enclosure.

Letter No. 2101—1264, dated 23rd December 1897, from the District Magistrate of Kolar, to the Registrar of the Chief Court of Mysore—

With reference to para 3 of my judgment in Criminal Appeal No. 31 of 1897-98, forwarded with docket No. 255, dated the 22nd instant. I have the honor to submit explanation of the Amildar Magistrate received this day, together with the criminal records connected therewith.

2. It will be seen from these papers that the accused is a native Indian subject of Her Majesty and was living at Desaballi in the Bowringpet taluk as a cooly. He was arrested by British Police in British Territory and placed before the Sub-Magistrate of Kuppam for trial. The Sub-Magistrate finding that the offence had been committed in Mysore province, ordered him to be placed before the Bowringpet Taluk Magistrate, who tried and convicted him. In the first place the accused being a British subject, he might have been tried by the British Magistracy under Section 188 of the Criminal Procedure Code. Failing that, he should have been remanded to the lock-up by the Magistrate pending institution of formal proceedings for his extradition. The surrender and the subsequent trial before the Amildar Magistrate of Bowringpet are therefore clearly illegal, and the conviction by him and the confirmation of the appeal by me are void.

3. I beg therefore that the Chief Court will be pleased to take necessary action on the revision side. A copy of this letter will also be submitted to Government for their information.

READ ALSO—

The following order of the Chief Court in Revision Case No. 98 of 1897-98, (received with the Government Advocate's letter No. 151, dated 9th March 1898)—

"As the offence was committed within the jurisdiction of the Bowringpet Taluk Magistrate, it "cannot be said that the Magistrate had not jurisdiction to try the offence.

"Whatever illegality the Kuppam Magistrate and Police may have been guilty of in placing the "accused before the Bowringpet Magistrate, the latter cannot be said to have exceeded his jurisdiction "in trying the case when the accused was placed before him. Moreover, the accused does not appear "to have objected to the Bowringpet Magistrate's jurisdiction to try the case.

"Section 188 of the Code of Criminal Procedure in force in Mysor is not applicable to the case as "it has reference to offences committed by "Subjects of His Highness the Raja of Mysore" in any "place "beyond the Territories of Mysore."

"It is unnecessary for us to consider what the Kuppam Magistrate should have done under the "corresponding section of the Code of Criminal Procedure in force in British India.

"The record is herewith returned."

No. 12029-37—J. 1307, DATED BANGALORE, 24TH MARCH 1898.

ORDER THEREON.—The above order of the Chief Court will be communicated to all District Magistrates for information in continuation of para 3 of Government Proceedings No. 10172-80—J. 1098, dated the 22nd February 1898.

C. SREENIVASIENGAR,
Secy. to Govt., Gen. & Rev. Depts.

To—All District Magistrates.
Copy to the Registrar of the Chief Court of Mysore.

Exd.—H.A.R.

1897-98

GOVERNMENT OF MYSORE

JUDICIAL

PROCEEDINGS

Dated 24th March 1898

No. 12029-37
1307

Communicating to the District Magistrates the order of the Chief Court on the Revision Side in the matter of a trial by the Mysore Magistrate of offenders illegally surrendered from British Territory.

M.G.C.P.B.—25-4-98—250